HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition(S) No.7341/2007

Petitioner Vimal Kumar Gautam,
Aged about 45 years,
S/o Shri Narmada Prasad Gautam, Presently posted as Senior Horticulture Development Officer, Pendri, District Rajnandgaon , R/o Government Garden Rajnandgaon, District Rajnandgaon (Chhattisgarh)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through Secretary,
Department of Agriculture,
Mantralaya, D.K.S. Bhavan,
Raipur (Chhattisgarh)
2. Director,
Horticulture, Chhattisgarh,
Raipur (Chhattisgarh)
3. Assistant Director,
Horticulture Department,
District Rajnandgaon
(Chhattisgarh)
4. Khushal Upas Rao Ghode,
S/o Shri Upas Rao Ghode,
Aged about 53 years, Posted as Senior Horticulture Development Officer, Pendri, District Rajnandgaon, R/o Government Garden, Dongargarh, District Rajnandgaon (C.G.)

Writ petition under Article 226 of the Constitution of India

Appearance:

Shri Varun Sharma, counsel for the Petitioner.

Shri Satish Gupta, Dy. Govt. Advocate for the State.

ORAL ORDER
(12.12.2007)

SUNIL KUMAR SINHA, J.

Heard.

The petitioner, who is working on the post of Senior Horticulture Development Officer, Pendri, District Rajnandgaon has been transferred to Dantewada on administrative grounds

and respondent No.4 is being brought to the place of the petitioner.

Learned counsel for the petitioner submits that the order has been passed to accommodate respondent No.4

During the course of arguments, learned counsel for the petitioner could not establish as to how it can be said that the order has been passed to accommodate respondent No.4.

On being pointedly asked from learned counsel for the petitioner that since when the petitioner is posted at Pendri, he submits that the petitioner is posted at Pendri since the year 1999.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous considerations or is against any statutory Rule or the Act, it cannot be interfered with by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, or extraneous considerations or that the order has been passed against any Statutory Rule or the Act.

I do not find any reason to interfere with the order of transfer of the petitioner.

The petition has no merit. The same is dismissed at the motion stage itself.

At this stage, learned counsel for the petitioner submits that the petitioner has given representation to the concerned Minister and he should be given opportunity to make a representation before the concerned authority and it may be ordered that the observations made in this order shall not come in the way of deciding the representation.

In view of the above, it is directed that if a representation is made before the concerned authority, the concerned authority shall be free to dispose of the representation in accordance with law without being influenced by any observations made by this Court in this order.

Sd/-
Sunil Kumar Sinha
Judge

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